

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANDRE R. YOUNG,	)	CASE NO.C07-1176-RSL
	)	
Plaintiff,	)	
	)	
v.	)	REPORT AND RECOMMENDATION
	)	RE: MOTION TO DISMISS SOCIAL
SOCIAL SECURITY ADMINISTRATION,	)	SECURITY CLAIM
	)	
Defendant.	)	
_____	)	

This matter comes before the Court on plaintiff's claim, filed in the King County District Court for the State of Washington, Small Claims division and removed to this Court by defendant on July 30, 2007. (Dkt. 1.) Defendant now moves to dismiss the case. (Dkt. 3.) Plaintiff did not respond.<sup>1</sup> It is recommended that the motion be granted and the case dismissed.

**I. BACKGROUND**

On July 9, 2007, plaintiff filed a Notice of Small Claim against the Social Security

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<sup>1</sup> A failure of a party to file papers in opposition to a motion may be taken by the Court as an admission that the motion has merit. CR 7(b)(2); *Chourre v. I.R.S.*, 203 F. Supp. 1196, 1199 (W.D. Wash. 2002).

Administration in King County District Court, claiming that defendant owed him \$830.66 and alleging that defendant had reduced his social security benefits without legal authority. (*See* Dkt. 1, Ex. A.) Defendant filed a motion to dismiss, contending that the dispute regarding the reduction in benefits remains pending with the Social Security Administration, and that, therefore, plaintiff has not exhausted his administrative remedies. Plaintiff has not replied to the motion to dismiss and, therefore, does not contest defendant's recitation of the procedural status of the case.

## II. ANALYSIS

This Court's jurisdiction to review an adverse determination in a claim for Supplemental Security Income (SSI) benefits is based on 42 U.S.C. § 405(g), which allows a final decision of the Commissioner of Social Security to be appealed to the district court of the United States for the district in which the claimant resides. A decision of the Commissioner is not final until the claimant has exhausted his administrative remedies. *Johnson v. Shalala*, 2 F.3d 918, 921 (9th Cir. 1993). After the initial application is filed, the administrative review process includes a reconsideration, a hearing before an administrative law judge, and an Appeals Council review. Only when these stages have been completed may the claimant request judicial review by filing an action in the United States District Court. 20 C.F.R. § 404.900.

Here, plaintiff's social security claim is at the reconsideration stage of the administrative review process. He has not yet proceeded to a hearing before an administrative law judge or review by the Appeals Council. Therefore, he has failed to exhaust his administrative remedies.

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**III. CONCLUSION**

For the foregoing reasons, it is recommended that the motion to dismiss be granted and this case dismissed.

DATED this 13th day of September, 2007.

  
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Mary Alice Theiler  
United States Magistrate Judge